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Ontario. Consolidated Hearings Act, 1981.

CH-91-01(F)

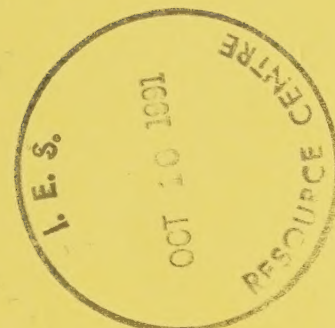
INTERIM DECISION AND REASONS IN THE MATTER OF AN
APPLICATION BY PRICE WATERHOUSE LIMITED, THE RECEIVER
AND MANAGER OF THE ASSETS OF THE INNISFIL LANDFILL
CORPORATION... 1991.

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The Joint Board THE CONSOLIDATED HEARINGS ACT, 1981



CH-91-01(F)

INTERIM DECISION AND REASONS

IN THE MATTER OF an application by Price Waterhouse Limited, the Receiver and Manager of the assets of the Innisfil Landfill Corporation, for a Certificate of Approval to continue to provide a facility for the purpose of receiving and disposing of waste from certain named municipalities for a period of five years, and for constructing, operating, maintaining, and rehabilitating a sanitary landfill site located on Part lots 8 and 9, Concession VI, in the Town of Innisfil.

BEFORE:	R.A. Pharand, Q.C.	-	Chairman
	A.B. Ball	-	Member

DATED at **TORONTO** this **7TH** day of **OCTOBER**, 1991.

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BEFORE: R.A. Phairand, Q.C.
A.B. Hall

Chairman
Member

IN THE MATTER OF Sections 2 and 3 and Regulation 688/81 of the *Consolidated Hearings Act*, S.O. 1981, as amended;

AND IN THE MATTER OF Sections 30, 33 and 38 of the *Environmental Protection Act*, R.S.O. 1980, c. 141, as amended;

AND IN THE MATTER OF the *Intervenor Funding Project Act*, S.O. 1988;

AND IN THE MATTER OF Sections 6, 24 and 26 of the *Ontario Water Resources Act*, R.S.O. 1980, c. 361, as amended;

AND IN THE MATTER OF Section 28(5), and Regulation 179/80 of the *Conservation Authorities Act*, R.S.O. 1980, c. 85, as amended, if it is added to the schedule of the *Consolidated Hearings Act*;

AND IN THE MATTER OF Section 34(11) of the *Planning Act*, S.O. 1983, as amended;

AND IN THE MATTER OF an application by Price Waterhouse Limited, the Receiver and Manager of the assets of the Innisfil Landfill Corporation, for a Certificate of Approval to continue to provide a facility for the purpose of receiving and disposing of waste from certain named municipalities for a period of five years, and for constructing, operating, maintaining, and rehabilitating a sanitary landfill site located on Part lots 8 and 9, Concession VI, in the Town of Innisfil.

BEFORE:	R.A. Pharand, Q.C.	-	Chairman
	A.B. Ball	-	Member

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APPEARANCES:

- H. Dahme - for the Proponent
W. Yenson
- D. Thomson - for the Corporation of the Town of Innisfil
- K.C. Hill - for Lake Simcoe Region Conservation Authority
- J. Hamilton - President, Innisfil Heights Ratepayers' Association
- D. Soulliere - West Innisfil Ratepayers' Association and Agent for a Coalition
S. Spanis of Five Ratepayer groups
- R. Gooch - on his own behalf

INTERIM DECISION AND REASONS

This Funding Panel was appointed pursuant to Section 4(1) of the *Intervenor Funding Project Act, 1988* on June 12, 1991.

Price Waterhouse Limited, Receiver/Manager for Innisfil Corporation agreed on June 28, 1991 to be named Funding Proponent pursuant to Section 6(1) of the *Intervenor Funding Project Act, 1988*.

Four applications for intervenor funding were received from:

- a) Mr. Robert Gooch, an owner of property adjacent to the Innisfil Landfill site;
- b) Coalition of Ratepayers' Association, representing West Innisfil, South Innisfil, Innisfil Heights, Big Bay Point and Churchill Heights (The Coalition);
- c) The Town of Innisfil (The Town); and
- d) The Lake Simcoe Region Conservation Authority (The Authority).

The landfill site that is the subject matter of these proceedings is located in the Town of Innisfil, more particularly described as the North East Quarter of Lot 8, Concession 6, Township of Innisfil, Simcoe County.

The waste disposal site was originally approved pursuant to an application by the Township of Innisfil (now the Town of Innisfil) on February 25, 1971.

The Official Plan for the Innisfil Planning Area was adopted by the Township of Innisfil on the 4th day of January 1981. Section 19.7 of the Official Plan stated as follows:

At the present time the sanitary landfill site is capable of servicing the needs of the Township for a minimum of five years and a maximum of fifteen years. The Township will monitor the capacity of the landfill site and, with the co-operation of the Ministry of the Environment, shall endeavour to establish a new site well in advance of the required closing of the existing site.

Nine Provisional Emergency Certificates of Approval were granted by the Ministry of the Environment giving municipalities other than the Town of Innisfil access to the site. The other municipalities with access to the site are The Villages of Beeton, Cookstown, Tottenham and Orangeville, and the Townships of Adjala and Tecumseth.

The present Emergency Certificate of Approval allows the other municipalities to use the Innisfil Landfill site until September 20, 1991.

The Funding Panel commenced the Funding Hearing at Toronto on June 28, 1991.

By letter dated June 28, 1991, Mr. Jack Coop, counsel for the Ministry of the Environment advised that, providing that the funding requested was in respect of issues identified by the parties at the preliminary hearing as major hearing issues, the Director took no position on the funding application. Counsel for the proponent undertook to advise Mr. Coop, in writing, that issues dealt with at the Funding Hearing would be the ones that were dealt with at the preliminary hearing.

The proponent agreed to fund Mr. Robert Gooch in the amount of \$599.20 (this amount includes the GST 7%) for a land-use expert and related disbursements.

Because the parties required more time to exchange information and to facilitate a consolidation of their respective positions, the Hearing was adjourned to September 3, 1991.

At the Hearing that resumed on September 3, 1991 the parties agreed on a number of issues and the Proponent agreed that the Coalition of Ratepayers' Association was entitled to intervenor funding. It did not agree that the Town of Innisfil and the Lake Simcoe Conservation Authority were eligible to receive intervenor funding.

Also at that time the proponent and intervenors entered into negotiations respecting funding allocations, subject to the Board determining the remaining intervenors' eligibility for funding. These negotiations were to allow the intervenors to begin preparation of their cases prior to the continuation of the hearing on October 17, 1991.

A Memorandum of Agreement negotiated by the parties has apparently been prepared and, as of October 3, 1991, signed. It was executed following acknowledgement by the parties that any obligations to be incurred by the funding proponent will be subject to the approval of the Ontario Court of Justice (General Division) as well as the secured creditor.

Meanwhile, the Board believes it should issue this interim decision on eligibility so that the proponent and the parties have clear direction for the continuation of the hearing. If expenses are incurred before October 17, 1991 pursuant to the Agreement, the invoices will be processed and paid pursuant to the Funding Panel's final decision.

The Funding Panel has heard the parties and reviewed the correspondence between the parties setting out the objections of the proponent regarding the eligibility of the two contested intervenors and the replies of those intervenors.

The proponent objected to funding the Town because it failed to establish a record of concern and commitment of interest and failed to show need.

The Town has shown that the landfill site was initially approved for its sole use. Subsequent Emergency Certificates of Approval for other municipalities were granted by the Ministry of the Environment without the Town's approval and beyond its control. There has always been a concern and a commitment of interest in the landfill site. The Town submitted that if Emergency Certificates had not been granted by the Ministry of the Environment, the landfill site would suit its needs and the proponent would not be proceeding with the application.

The Town is therefore eligible for intervenor funding under the Act.

Although the Conservation Authority, by way of its jurisdiction, may have specific interest, it has no alternative but to intervene in the application brought by the proponent.

The Conservation Authority is eligible for intervenor funding under the Act.

ORDER

The Funding Panel orders:

1. Price Waterhouse Limited, Receiver/Manager for the Innisfil Landfill Corporation, is named the Funding Proponent;
2. Mr. Robert W. Gooch, the Coalition of Ratepayers' Association, the Corporation of the Town of Innisfil, and the Lake Simcoe Region Conservation Authority are eligible for intervenor funding; and

3. In order to facilitate the final funding allocation, the intervenors shall submit to the funding panel in writing their Financial Plan Summary, before October 17, 1991 in accordance with the attached Financial Plan Summary detailing hours, rates, fees, disbursements and GST.

DATED at TORONTO this 7TH day of OCTOBER, 1991.

"R.A. Pharand, Q.C."

R.A. Pharand, Q.C.
Chairman

"A.B. Ball"

A.B. Ball
Member

INTERVENOR:

FINANCIAL PLAN SUMMARY

LEGAL -----	HOURS -----	RATE/HOURS -----	LEGAL FEES -----	GST @ 7% -----	TOTAL -----
		\$	\$	\$	
Senior counsel	0	83.75	0.00	0.00	0.00
Intermediate counsel	0	75.38	0.00	0.00	0.00
Junior counsel	0	67.00	0.00	0.00	0.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			0.00	0.00	0.00
Total (legal)			0.00	0.00	0.00
			=====	=====	=====

EXPERTS -----					GST (7%) Fee+Disb	TOTAL -----
AREA OF STUDY -----	HOURS -----	RATE/HOUR -----	EXPERT FEES -----	DISBURSEMENTS -----		PER EXPERT -----
		\$	\$	\$	\$	\$
1.	0	0.00	0.00	0.00	0.00	0.00
2.	0	0.00	0.00	0.00	0.00	0.00
3.	0	0.00	0.00	0.00	0.00	0.00
4.	0	0.00	0.00	0.00	0.00	0.00
5.	0	0.00	0.00	0.00	0.00	0.00
6.	0	0.00	0.00	0.00	0.00	0.00
7.	0	0.00	0.00	0.00	0.00	0.00
8.	0	0.00	0.00	0.00	0.00	0.00
9.	0	0.00	0.00	0.00	0.00	0.00
10.	0	0.00	0.00	0.00	0.00	0.00
11.	0	0.00	0.00	0.00	0.00	0.00
Total (Experts)			0.00	0.00	0.00	0.00
			=====	=====	=====	=====

DISBURSEMENTS -----	DISB -----	GST (7%) -----	TOTAL -----
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)			0.00
	=====	=====	=====
SUB-TOTAL ALLOCATION:		0.00	0.00
Other sources of funding;			0.00
TOTAL ALLOCATION:		0.00	0.00
		=====	=====

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Phone:
Fax:

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Ontario, Consolidated Hearings Act, 1981.

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AND MANAGER OF THE ASSETS OF THE INNISFIL LAND

**RESOURCE CENTRE
INST. FOR ENVIRON'L. STUDIES
UNIVERSITY OF TORONTO**



